

**Notice of Allowability**

Application No.

10/560,136

Applicant(s)

FUJII ET AL.

Examiner

Art Unit

Nancy Bitar

2624

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 03/07/2006.
2. ☒ The allowed claim(s) is/are 4-6.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 03/07/06
- ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- ☐ Notice of Informal Patent Application
- ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 9/17/07
- ☐ Examiner's Amendment/Comment
- ☒ Examiner's Statement of Reasons for Allowance
- ☐ Other \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 4-6, drawn to "evaluating the beauty of a skin", classified in class 382, subclass 128.
  - II. Claims 7-10, drawn to "image simulation method", classified in class 382, subclass 108.
  - III. Claim 11, drawn to "a method for separating data of a mirror-reflected light component from a digital image", classified in class 382, subclass 286.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I, II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as " associating an average value from values of the dispersion with the beauty of the skin ". Subcombination II has separate utility such as "synthesizing the reconstructed image data with the internally reflected light component data and obtaining a simulation image of the target". Subcombination III has separate utility such as "extracting a mirror-reflected light component from the digital image data wherein the extraction of data of a mirror-reflected light component is performed by using a dichromatic reflected model and a Moor-Penrose generalized inverse matrix.

See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

3. During a telephone conversation with Mr. Collin Harris on 09/17/2007 a provisional election was made without traverse to prosecute the invention of a method for evaluating the beauty of a skin, claims 4-6. Affirmation of this election must be made by applicant in replying to this Office action.

#### **EXAMINER'S AMENDMENT**

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Collin Harris on 9/19/2007.

The application has been amended as follows: Claims 7-11 are cancelled.

***Allowable Subject Matter***

5. The following is an examiner's statement of reasons for allowance: The prior art of record fails to teach or suggest, synthesizing the selected high frequency components and defining the synthesized data as reconstructed image data; determining the dispersion of respective pixel components in terms of the reconstructed image data; and associating an average value from values of the dispersion obtained in step with the beauty of the skin. While Dauga et al (US 7,127,280) teaches a surface examination device comprises a polarization analyzer arranged in a beam of light reflected from the surface of the object. A digital image capture device is arranged downstream of the polarization analyzer and a processing unit analyses the image to calculate the shininess and intensity for a number of points on the surface from the pixels of at least two surface images. Beckmann et al (US 6,624,890) teaches the use of polarized light to measure properties of tissue. More particularly, polarized light can be used to detect dysplasia in tissue as the polarization of back-scattered light from such tissues is preserved while the contribution of diffusely scattered light from underlying tissues can be removed. A fiber optic system for delivery and collection of light can be used to measure tissues within the human body.

The Examiner finds no reason or motivation to combine the above references in an obviousness rejection thus placing the application in condition for allowance.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

6. Claims 4-6 (now renumbered 1-3) are allowed.

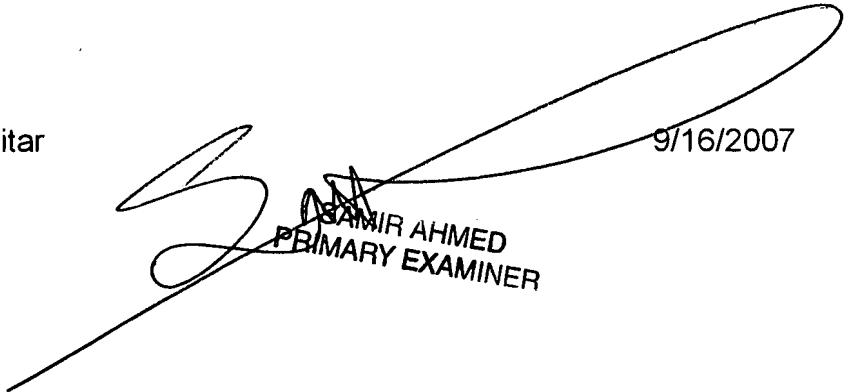
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nancy Bitar whose telephone number is 571-270-1041. The examiner can normally be reached on Mon-Fri (7:30a.m. to 5:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samir Ahmed can be reached on 571-272-7413. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nancy Bitar

9/16/2007

  
SAMIR AHMED  
PRIMARY EXAMINER